

WORKER ADVOCACY ADVISORY COMMITTEE

U.S. DEPARTMENT OF ENERGY

**PUBLIC MEETING
TRANSCRIPT**

**Meeting via Conference Call
July 20, 2001**

MEETING PARTICIPANTS

Committee Members Present:

Emily Spieler, Chair, West Virginia University
Leslie I. Boden, Boston University
John F. Burton, Jr., Rutgers University
Jeanne Cisco, Portsmouth Uranium Enrichment Plant
Donald Elisburg, Esq., Attorney
James Ellenberger, PACE
Steven Markowitz, Queens College
Kathryn Mueller, State of Colorado
Iris J. Post, State of Iowa
Glenn Shor, State of California
Gregory Wagner, National Institute for Occupational Safety and Health

Department of Energy Participants:

Roger Anders, Office of Worker Advocacy
Steven Cary, Office of Environment, Safety and Health
Jeff Eagan, Office of Worker Advocacy
Joe Falco, Office of Worker Advocacy
Judy Keating, Office of Worker Advocacy
Kate Kimpan, Office of Worker Advocacy
Paul Seligman, Acting Director, Office of Worker Advocacy
Loretta Young, Worker Advocacy
Mary Jo Zacchero, Office of Management and Administration

Other Participants:

Courtney Atchison, Westnghouse Safety Management Solutions
Carrie Callahan, Physicians for Social Responsibility
Larry Elliott, National Institute of Occupational Safety and Health
William Elson, ITT
Liz Epstein, U.S. Department of Justice
Linda Gass, Citizens for a Healthy Environment
Angela Herman, American Insurance Association
Richard Miller, Government Accountability Project
Roberta Mosier, U.S. Department of Labor
Mark Olsen, Bechtel BWXT Idaho, LLC
Gail Williams, Nevada Test Site Medical Surveillance Project

P R O C E E D I N G S

1:01 p.m.

MS. SPIELER: Calling this now as the official conference call meeting of the WAAC.

What I'd like to do first is to have all the committee members identify themselves who are on the line.

This is Emily Spieler, and then everyone else who's on the line, and if you could tell us your affiliation as well, please. So somebody start. This is difficult to do in a kind of -- could the committee members just --

MR. SELIGMAN: Why don't we just take roll of the committee members we have already on line? Okay.

Jim Ellenberger?

MR. ELLENBERGER: Here.

MS. EPSTEIN: Greg Wagner?

DR. WAGNER: I'm here.

MS. KEATING: Jeanne Cisco? Jeanne Cisco?

MR. SELIGMAN: Right.

MS. CISCO: Here.

MS. KEATING: Len Martinez? I'm sorry. John Burton? Emily Spieler? Glenn Shor? And Steve Markowitz.

MR. SELIGMAN: Are there any other committee members on the line?

MR. MARTINEZ: Len Martinez.

MR. SELIGMAN: Len Martinez, right.

MR. OLSEN: And Mark Olsen [for Bernard Meyers].

MR. SELIGMAN: Right. Any other committee members on line?

DR. MUELLER: This is Kathryn Mueller.

MR. SELIGMAN: Kathryn Mueller has just joined us. Okay.

MS. SPIELER: Is Vicky Hatfield on the line?

(No response)

MS. SPIELER: Don Elisburg?

MR. SELIGMAN: Yep. Laura Welch is not joining us.

MS. SPIELER: Do you know if they'll be joining us?

MR. SELIGMAN: Laura will not. I believe Vicky and Don are planning to do so. Who's called in?

MS. CALLAHAN: Hi. This is Carrie Callahan. I'm with Physicians for Social Responsibility, and Jaya Tiwari asked me to call in for her. She couldn't make it.

MR. SELIGMAN: Thank you.

MS. SPIELER: So the committee members on the line are Spieler, Ellenberger, Wagner, Cisco, Burton, Shor, Markowitz, Martinez, Mark Olsen (for Bernard Meyers), and Kathryn Mueller.

Could the rest of you identify yourselves, please?

MR. SELIGMAN: Why don't we start with DOE, Office of Advocacy staff, who are on the line. Joe Falco. We have Jeff Eagan, Loretta Young, and Judy Keating.

Are there any other OWA staff? Roger Anders? Anybody else?

(No response)

MR. SELIGMAN: Okay. That's it. We have official representatives from federal staff. We have Roberta Mosier from the DOL. Anybody else from DOL, Roberta?

MS. MOSIER: No. That's it.

MR. SELIGMAN: Okay. From the Department of Justice, we have Liz Epstein.

MS. EPSTEIN: Yes.

MR. SELIGMAN: Anybody else from Justice?

MS. EPSTEIN: No.

MR. SELIGMAN: Do we have anybody else from HHS yet?

MR. ELLIOTT: Larry Elliott.

MR. SELIGMAN: Larry Elliott from HHS. Good. Thanks, Larry. Any other representatives from any other federal agencies on the line?

(No response)

MR. SELIGMAN: Okay. Why don't we get in -- I guess, go ahead as you proposed, Emily, and have others just identify themselves who have called in.

MS. SPIELER: Okay. Everyone who else who has called in, I'd appreciate it if you'd give your name and affiliation.

MS. HERMAN: Angela Herman, American Insurance Association.

MS. POST: This is Iris Post from the State of Iowa. I've joined the conference call.

MR. ATCHISON: I'm Courtney Atchison. I'm with Westinghouse Safety Management Solutions.

MR. ELSON: This is William Elson. I'm with ITT Industries.

MS. WILLIAMS: Gail Williams, and I'm the coordinator for the NTS Medical Surveillance Project. It's one of the former Worker projects funded by DOE.

MR. SELIGMAN: Anybody else?

MS. CALLAHAN: Yes. Carrie Callahan with Physicians for Social Responsibility on behalf of Jaya Tiwari

MR. MILLER: Richard Miller, sitting in for Government Accountability Project.

MS. SPIELER: Who's that?

MR. MILLER: Richard Miller from Government Accountability Project.

MR. SELIGMAN: Anyone else?

MS. GASS: Yes. Linda Gass. Since Vicky Hatfield is apparently not on, may I substitute for her, please?

MS. KEATING: No.

MS. SPIELER: Procedurally, I don't know. I mean, Mark Olsen is on.

MR. SELIGMAN: She can sit in but not as an official member of the committee.

MS. SPIELER: And the same really applies to Mark, I believe, right?

MR. SELIGMAN: That's correct.

MS. SPIELER: Okay.

MS. GASS: What's that?

MR. SELIGMAN: Anybody else?

MS. SPIELER: Linda, is Vicky going to be joining us? Do you

know?

MS. GASS: She wasn't sure.

MS. SPIELER: Okay.

MS. GASS: But I didn't understand. Am I -- may I substitute for her?

MS. SPIELER: Well, you can't substitute for her officially because of the way the federal rules work, but we'd be happy for you to sit in, and we'll certainly take your comments.

MS. GASS: Okay. I'm Linda Gass, and I am a sick person Advocate for the Oak Ridge Area, in which Vicky Hatfield is the committee member, who -- yes. She is a committee member, yes. She is the only community representative, and so since she's not on the call, --

MS. SPIELER: Yes. No. That's fine, Linda. So we'll welcome your comments, and I don't expect there to be any votes today. So I don't know that it really technically matters.

MR. SELIGMAN: That's fine.

MS. SPIELER: Okay?

MR. SELIGMAN: That's correct.

MS. SPIELER: Let me just start off the meeting by telling people, because I don't know that everyone knows this, that Linda Rudolph and Andrea Kidd Taylor both resigned from the committee.

Linda's taken a job outside the sort of scope of what she used to do at Occupational Health and has, after some attempt, decided that she couldn't juggle this as well.

Andrea Kidd Taylor sends her regrets but doesn't have time to participate, and I don't know whether DOE is proceeding to make any additional appointments to the committee.

I had asked that we spend about five minutes at the beginning of this call in reaching some agreement about the format for the August meeting in

Denver, and in particular, because I had received from -- I spoke with Judy and Pam, I guess, at the beginning of this week, and there was some confusion about the exact nature of the expectations with regard to the public meeting with people from the site in Colorado, and I wanted to make sure that we met people's expectations with regard to this meeting because I believe that we decided to hold the meeting at a site rather than in Washington in order to have the opportunity to hear from workers and community members at the site.

So I'd like to know what your expectations are with regard to this meeting, and I'm addressing that to the committee members.

MR. SELIGMAN: Please identify yourself.

DR. SHOR: This is Glenn Shor.

MR. SELIGMAN: Everyone needs to identify themselves before they speak. Okay? Thanks.

DR. SHOR: I had understood that we were going to try to have at least part of the time devoted to a public meeting, where we would hear from community members, and that's why we were going out to one of the sites.

I think there's also need for the subcommittee to meet prior to the full meeting.

MS. SPIELER: Okay. I had sent out -- first, let me stop. Is there anyone who disagrees with either of the things Glenn just said? First, what we've been calling a public meeting, I think maybe we need to call it kind of public hearing, because obviously all of our meetings are public meetings. But a time aside specifically to hear input from the workers in communities.

Is that everyone's understanding about what we want to be doing out there?

MR. ELLENBERGER: I agree with that. This is Jim Ellenberger.

MR. MARTINEZ: This is Len Martinez. I agree with that.

MR. ELISBURG: Don Elisburg, and I agree.

MS. SPIELER: Okay.

MR. ELISBURG: This is Don Elisburg, and I agree with you, too.

MS. SPIELER: Welcome, Don. Okay. Now, I had sent out a suggestion about a possible meeting structure timing in terms of have -- because after that initial e-mail, Judy wrote back and suggested that we have the public hearing in the evening, looking at a two-day/Tuesday-Wednesday meeting, holding the public hearing on the evening of Tuesday, at a place that's convenient and comfortable for community members.

Is that doable? I'm addressing this to staff and to people who know the Colorado, Rocky Flats, site.

MR. EAGAN: I have not yet been able to -- this is Jeff Eagan. I have reached out to the Union there. They were extremely busy in a public meeting yesterday, and they're off today. So, I've not been able to receive a response from them.

But an evening meeting, and there are hotels that are frequently used for such public meetings in the North-Northwest side, such as the facility that we used last night or the Arvada Arts Center, I understand, are available for that date.

MS. SPIELER: Okay. Other comments about doing this public hearing on the Tuesday evening, which would be August 28th.

PARTICIPANT: Emily, your dates did not correspond to the days --

MS. SPIELER: Oops.

PARTICIPANT: -- on your memo.

MS. SPIELER: Oh, oops. I think I was looking -- we had originally held a kind of Tuesday-Wednesday-Thursday set of days, and I was thinking Tuesday and Wednesday.

PARTICIPANT: Okay.

MS. SPIELER: And if I got the dates wrong, my abject apologies on that.

PARTICIPANT: Tuesday's the 28th.

MS. SPIELER: Okay. So, the 28th and 29th. Isn't that what I put on the memo? Well, whatever. I'm not sitting in front of my e-mail.

MR. SELIGMAN: Folks are going to have to identify themselves, please, before they say anything.

MS. SPIELER: Okay. So how does -- does it strike people that it makes sense that we have subcommittee meetings on the afternoon of Tuesday, the 28th, the public hearing on the night of Tuesday, the 28th, and the committee meeting on the day of Wednesday, the 29th?

PARTICIPANT: Yes.

MS. SPIELER: Let me ask it this way. Does anyone have a problem with structuring it that way?

PARTICIPANT: No.

MS. SPIELER: Okay. I'm going to suggest -- I actually went to the Internet this morning and just checked on when people on the East Coast could catch flights out of Denver, and I understand the Denver Airport is not as convenient as we might like, that we consider holding our committee meetings starting at 7:00 in the morning on Wednesday and hold it until 2.

The people are going to be catching flights starting at about 4:30 out of the airport.

DR. BURTON: How far away from the airport? This is John Burton?

MS. SPIELER: Hmm?

DR. BURTON: How far away are we from the airport? John Burton.

MS. SPIELER: 30 miles, I gather, or so. Is that -- well, it depends on where we hold the meeting.

MR. MARTINEZ: This is Len Martinez. If we hold the meeting in a facility that we conducted last night, you're about -- if you don't have a rental car, you're about 30 minutes away from the terminal, and you need to allow for another 30 minutes or so to get to your airplane, assuming you're not checking

baggage.

MS. SPIELER: Okay. Well, then we might be able to push that a little. Most of the flights left right around 5:00, but in any event, what I'm going to suggest as we finalize these plans is that we work on setting a time to start earlier in order to not have the situation where we're really in a half-day meeting on Wednesday.

So we'll figure out about the logistics based upon where the meeting actually happens and how people are going to get to the airport and work from there. Does that make sense to people?

PARTICIPANT: That makes sense. For those of us coming from the West Coast, if we could start the subcommittee meetings not before 12.

MS. SPIELER: Yes, that would make sense for those of us who are on the East Coast, also, because if we want to fly out that day, we probably won't make it, and I would just ask that Pam and whoever else is going to be making arrangements sort of work with people on figuring out when arrival times are possible so that we can work through that.

Okay. Is that -- is there anything else that we need to deal with about the logistics of the August meeting at this point?

MR. MARTINEZ: This is Len Martinez. The only comment I would make is there are several facilities that may be available. I heard the facility we used last night, which is the Doubletree in Westminster. I would suggest the staff also look at the Omni Hotel and the Arvada Center, and those are the ones that are on the north side of the plant, which would be attractive for employees or former workers to attend a public meeting.

DR. BURTON: This is John Burton. Logistics. Are we supposed to make our own airline reservations or will that be something that --

MR. SELIGMAN: Yes. This is -- you're joining a conference call. Go ahead. Go ahead, Emily.

MS. SPIELER: John?

DR. BURTON: Yes?

MS. SPIELER: Why don't we ask -- would Pam be making

arrangements with people around travel?

MS. KEATING: Yes, she will.

MS. SPIELER: Would you have her get in touch with the committee members --

MS. KEATING: Yes.

MS. SPIELER: -- as soon as possible to sort of figure out who's going to make -- how the arrangements are going to be made?

I think the advantage of having flight arrangements made through the Department of Energy is that DOE can get government rates on the tickets, which we can't do doing it ourselves. But I have, you know

-- I leave it to Pam to -- sort of the specific logistics of getting people out.

MR. ELLENBERGER: This is Jim Ellenberger. What sort of outreach efforts will be made to let the public know about the public hearing on Tuesday evening?

MR. EAGAN: Jim?

MR. ELLENBERGER: Yes?

MR. EAGAN: This is Jeff Eagan. My assumption would be besides advertising and in-plant work, we would work with the Former Worker Medical Screening Program, and also probably try to work with the Union and perhaps try to generate some mailings to let people know about the meeting. That seems to have worked best in the past.

MR. ELLENBERGER: Okay. That sounds good.

MS. GASS: I'm Linda Gass. I have a comment, please.

MS. SPIELER: Sure. Go ahead.

MS. GASS: Yes. I believe the very largest site, particularly Oak Ridge and Hanford, I'm not sure of the exact numbers on -- but some of the largest sites, we're not getting any information about even the existence of the public meetings, and I have tried to work with the local public affairs at DOE Oak Ridge,

and I have asked for them to make this information public.

For example, this phone call right now, that this is something that the public can hear and participate, and he said there was a mix-up as far as getting communication, but I think that certainly the large sites need to be included.

I think we're much larger than Rocky Flats, of course, over the years, larger numbers of people, but we're not getting any information in Oak Ridge. I have -- you know, because I've talked to Vicky, I know that she's on the committee, but there are large numbers of people who are actually advocates and activists who have gone to Washington and passed the compensation bill largely through their efforts, and we would like to be included in the information process.

MS. SPIELER: Okay. If someone on the staff could look into how information gets out about our meetings and not only put it in the Federal Register but make it available at the sites.

MS. GASS: The public, and also we would like the transcripts somewhere that's accessible to Oak Ridge people. The DOE Reading Room is not accessible. We would like it at least in the Oak Ridge Public Library, these things that are public announcements.

There's at least the Knoxville and Oak Ridge repositories for public meeting announcements should know about these things because we've had over 2,100 people at the meetings these last two weeks regarding the compensation, and, of course, the district office is opening soon, and we'll be having many more people who will be able to attend.

MS. SPIELER: Linda, please, let me see if I can -- I assume all this information is on the website, is that true?

MS. KEATING: Yes, it is.

MS. SPIELER: It seems to me someone locally ought to be able to download it and make it available to people, but I would ask that since we have some specific business with regard to the advisory committee that we have to get through, I think it's very important, however, that the site be given adequate notice of information about what's going on in the implementation, including the activities of this advisory committee, and somehow there ought to be a mechanism for getting that downloaded and available in local offices and at the major sites, and I would ask that that be looked into, and then that we move on to

the -- because I think that the committee -- this meeting is really only convened at this point.

The expectation of many of the committee members is that we are only on this call today to sort of get updated on the implementation of what's going on by the various agencies, and why don't we hear from each of the agencies and have a period for questions and answers at the end of each report?

I'd ask people to hold their questions till the end of each report because of the difficulties in managing the phone call as opposed to being in a meeting room and being able to see each other.

So why don't we -- do we want -- are we going to start with DOL or with --

MR. SELIGMAN: Yes.

MS. SPIELER: -- DOE?

MR. SELIGMAN: I'd like to start with Roberta Mosier from DOL.

MS. SPIELER: Okay.

MR. SELIGMAN: Roberta, the floor is yours.

MS. MOSIER: All right. This is Roberta Mosier, Department of Labor.

The things that are going on currently, as you've heard, we've been doing a number of town hall meetings, most of them with Department of Energy. We've had meetings. We will, by the time we finish, have had meetings at a total of 28 locations and approximately 61 meetings total.

Next week, we will be conducting meetings in Dayton, Ohio, Kansas City, Missouri, Hazleton, Pennsylvania, Boston, Massachusetts, St. Louis, Cleveland and Toledo.

At these meetings, we've been handing out information packets to everyone who comes. We've had very good attendance, you know, ranging from smaller crowds of up to 400+ for each meeting.

Also occurring right now are resource center openings. The

resource centers are operated jointly by Department of Energy and Department of Labor. There are at least 10 resource centers that either have or will be opening within the next week.

We also are giving some consideration to there being satellite resource centers at other locations that are not served by one of these 10 existing resource centers.

Effective July 31st, our four Department of Labor-Energy Employees' Occupational Illness Compensation Program District Offices will begin to process claims. Those offices are located in Jacksonville, Florida, Cleveland, Ohio, Denver, Colorado, and Seattle, Washington. They have people on board. We have district directors for each office, and they will begin processing claims on July 31st.

We have, during the town hall meetings, passed out claims forms. We have been receiving those claims forms at -- in Washington, D.C., and those claims forms are being distributed to the appropriate district offices according to the area in which the individual worked.

That's about all I have for right now.

MS. SPIELER: Questions for Roberta?

DR. BURTON: This is John Burton. My question is a request, I guess. But could we get a copy of the packet that you were distributing at the town hall meetings?

MS. MOSIER: Sure. Where would I send that?

DR. BURTON: To all the members.

MR. SELIGMAN: We will -- this is Paul Seligman. We'll take care of that, Roberta. We have a copy of that package, and we have the addresses of the members, and we'll just make sure that such a packet gets mailed out.

MS. MOSIER: All right.

MR. SELIGMAN: Actually, my understanding is you will be providing us with an updated packet probably on Wednesday. So we'll send the latest draft of that packet out to the committee members.

MS. MOSIER: Okay.

MS. POST: This is Iris from the State of Iowa. I attended the two meetings in Iowa this week, earlier this week, and thought the packets were fairly easy to understand.

I am really concerned, and I'm just going to put this out to the Department of Labor, that many of these claimants are very elderly, and, for instance, in Iowa, they're going to either have to make a phone call or travel to Colorado, probably the closest site, to get assistance in filling out the forms, and I'm wondering -- there was a comment made that perhaps there would be a traveling group to go to some of the other sites to help folks fill out those claims forms, and is that indeed going to happen? If so, what's your time frame on that?

MS. MOSIER: There are a couple options here. One is, as you mentioned, the traveling resource center. We don't have any time frames for that yet. We've been real busy with the town hall meetings and getting the 10 resource centers up and running, but that is definitely something that we plan to do.

I mentioned, also, that as opposed to a traveling resource center, the satellite resource center concept, where we would -- what we would do for that would be to use personnel who are at one of the 10 existing resource centers and have them go to these other locations on a regular schedule a couple of days at a time and assist people at those locations in completing the necessary paperwork.

Also, the other thing that we can do for people is to assist them completing the forms over the telephone, and we haven't worked out all the details with that, but, you know, that would involve someone contacting them by telephone, and then they would talk them through the form over the phone, fill out the information and then send the form to them for signature, so that the form is signed by the claimant and forwarded on that way.

So those are a couple of the things we're doing to help some of the people who are not able to travel to one of the existing resource centers.

MS. POST: Okay. This is my last concern and maybe this isn't appropriate at this time. This is Iris from the State of Iowa.

At the meetings conducted by Department of Labor, I was a little concerned with the response given to many people when clearly the applicants or the claimants had no legitimate claim under the statute as written. They were still being encouraged to file claims.

I am very concerned that people who are covered under the statute will get buried in a pile somewhere, and DOL is going to spend all its time trying to sort out these claims that quite obviously there is no benefits available under the federal program, and so I was a little concerned that the people conducting the meeting, at least in Iowa, wanted everybody to go away happy, and that so much so, some of these people were, I think, misled a little bit about whether or not they indeed had a valid claim.

MS. MOSIER: Well, there is always -- there's great danger in doing town hall meetings of this nature, that people will, you know, talk about their specific circumstances and want to know, should I file a claim?

The bottom line is that in that type of setting, we can't answer that question one way or another. Anyone has the right to file a claim. We can't say no, you shouldn't file a claim, and I think that's a message that we're trying to get out.

We're telling them who's eligible, and if they ask, should I file a claim, the only thing we can say is that's your decision. You are, you know, free to file a claim. If you think you might be eligible, file a claim, and that's the message that we're trying to get out because we can't say in that setting whether someone is eligible or not. We can't make that judgment.

But let me also add that our claims examiners are able to evaluate the incoming claims and make judgments about -- very quickly. I mean, that's the first thing they're going to be looking at, is does this person have a covered condition, and is this person a covered employee? So, you know, they will be able to weed out the ones that are clearly not eligible very quickly.

MS. SPIELER: Can I ask a follow-up question about that? This is Emily.

I do -- when you say they don't have a covered condition, it may not be covered by the DOL program, but it may arguably be covered by the state compensation legislation. How is that being dealt with?

MS. MOSIER: Well, the claims that are submitted to the Department of Labor will be adjudicated under the Department of Labor's -- part of the program. I can't address how the --

MS. SPIELER: No. But I'm saying when a claims examiner looks at an application and sees that it's not a covered condition, does that mean they

just toss it out or do they route it back to someone else?

MS. MOSIER: If the claim is submitted to us, we assume that -- and it's our claims forms. They are Department of Labor-Energy Program claims forms. We have to treat that as a claim for compensation under our part of the program, and if the person is not a covered employee, we would issue a recommended decision that states that, and at that point, the person would be able to pursue any appeal rights.

MS. SPIELER: My question is -- goes not to the specific adjudication of the DOL claim but to the relationship and coordination between the DOL program and the Office of Worker Advocacy and the Physician Panel Program that's under DOE, and I'm wondering how

-- what's going to happen to people who, through confusion, may have filled out a DOL form but in fact may have something that should be followed up on through DOE.

How is the coordination working between the two programs?

MS. MOSIER: I think some of the -- Paul, please correct me on this, if I'm misspeaking. I think that in many instances, if there is a dual application made, in other words, they're applying both for the Labor program and for the Worker Advocacy Program, that Energy is waiting for our decision before they move forward.

MR. SELIGMAN: This is Paul Seligman. I think Emily raises an interesting question, which I think we should probably discuss, Roberta.

If a worker does not come to a resource center and is identified as being a potential claimant for either the federal or the state program or both, rather applies directly to the Department of Labor and has asbestos disease, for example, could we consider developing a means or mechanism whereby when the district office responds to that claimant, that they either inform the claimant directly that their claim might best -- more appropriately be taken up with the Department of Energy or -- and at the same time corresponding directly with the DOE Office of Worker Advocacy with the claimant's information and the fact that they have a condition that again might best be covered by the state comp side of the program.

I think this is an issue we probably should discuss and work out, because I think you're absolutely right, Emily. There's no doubt that there will be individuals, given the nature of the EE-1 form and the fact that they do have an

opportunity to check an "other" box on that, who will be, you know, writing in illnesses that clearly are not in the domain of the Department of Labor but would clearly be in the domain of the Office of Worker Advocacy.

So I think, Roberta, we just need to, you know, discuss how best to, you know, manage and triage those cases.

MS. MOSIER: I agree. This is Roberta. I agree. You know, at some point in the process, we can certainly put in some language so that they know it's not a covered condition under our part of the program, that they can -- that there are other avenues.

MR. SELIGMAN: Right. And my personal feeling is that, in addition to writing back the claimant and telling them there are other avenues, I think we should develop a mechanism whereby we can refer that individual's information directly to the DOE. It'll certainly shortcut a step rather than asking, you know, individual claimants to go back and file yet another claim form.

MS. CISCO: May I comment? This is Jeanne Cisco.

We have been processing claims here in Portsmouth, and our public meeting that DOE and DOL held here only introduced the federal forms, and DOE was there making a presentation, also.

I think there's a lot of confusion about whether what forms they were supposed to fill out, knowing they had a state claim. So many have went through on the federal form, and as you say, you know, you can check and put other conditions in there, other than cancers.

So I was -- in talking to the resource center that's open in Portsmouth, they are not -- they say they are not going to have anything to do with state claims, that we are supposed to go directly to the bureau and file a normal state claim. So I think something needs to be done there.

MR. SELIGMAN: There are two issues there. We'll take those up when we talk about the state approach.

MS. EPSTEIN: Yeah. But I -- Liz Epstein. Let's go back a minute. Are the resource centers joint DOL-DOE resource centers?

MR. SELIGMAN: Yes. Yes, they are.

MS. EPSTEIN: This should be addressed maybe in the context of the DOE conversations.

MR. SELIGMAN: Yes.

MS. SPIELER: Other questions for Roberta?

DR. SHOR: Yeah. I have a question. This is Glenn.

The Office of Worker Advocacy was putting together a database of people who had contacted them earlier on in this process. I think they were up to about 15,000 names the last time we met.

Have those people been notified that there is a packet or a claim form or something? What sort of communication is happening back to those people who originally filed?

MS. MOSIER: We received the address list that had been compiled from those contacts, and a letter was sent to each of them from the Secretary giving them additional information about the program and where to go for additional information.

DR. SHOR: Thank you.

MS. MOSIER: So there was a mass mailing done.

MS. SPIELER: Other questions for Roberta?

PARTICIPANT: I just have a question. Roberta, is there any kind of performance measures set up by DOL as to how long you anticipate it will take to process these claims, to either the initial rejection, and then, you know, if they pass through a panel or that type of thing?

MS. MOSIER: We're currently in the process of developing performance measures, and, yes, there are. You know, there will be various measures for initial actions on claims, measures for issuing recommended decisions, time frames for issuing final decisions, time frames for processing medical bills, time frames for responding to priority correspondence and for regular general correspondence and incoming telephone calls.

So we're in the process of developing a number of measures.

MR. ELLENBERGER: This is Jim Ellenberger. Are you going to let the public know what those time frames are?

MS. MOSIER: We're not going to publicize them. I mean, anyone that would want to know, we could tell them what they are, but --

MR. ELLENBERGER: Okay. I think this committee would be very interested in those measures.

MS. MOSIER: Okay. Well, once they are finalized, we could make those available.

MR. ELLENBERGER: Thank you.

MS. SPIELER: Other questions or comments with regard to Roberta's presentation?

DR. SHOR: Glenn again. How big are the staffs at the four regional centers that are processing the claims?

MS. MOSIER: Currently or where they will be by the end of --

DR. SHOR: Well, when you're up to -- when the program starts, I guess, next week or a few weeks.

MS. MOSIER: Okay. We currently have -- let me see. By the time they open on the 31st, we will have -- I'm looking at my list here. We'll have somewhere between 20 and 40 people on board at each office.

Many of them are currently in the process of interviewing, but they all have three to four claims supervisors, district director, between three and eight senior claims examiners and several lower-level claims examiners and other staff that they've already hired. So they won't be fully staffed as of the 31st, but they will have sufficient staff there that they will be able to process claims.

We also -- we're -- this -- I didn't mention that, but next week and the week after that is when the major training for the claims staff will be taking place as well.

MR. MILLER: Roberta, this is Richard Miller. Do you have a time frame that you're considering for how long you will wait until the Energy Department gets back with verification of employment, that you would then

permit people to, if DOE is either unresponsive or can't respond, that you would permit people to file affidavits of employment in lieu of waiting for DOE verification?

MS. MOSIER: No, we have not really established a set time frame for that yet.

MR. SELIGMAN: Richard, we've -- this is Paul Seligman of the Department of Energy. We've -- as part of our guidance to our record managers, we've asked them to spend no more than 60 days in that effort and try to locate employment verification.

If they are not able to do so within that time, to notify us, at which point we would notify the Department of Labor of our inability to find those records or conduct that verification. So that's the number we chose as what we thought would be a reasonable time frame, although again that was purely an internal administrative decision. We could certainly shorten it or lengthen it upon further consideration.

MR. MILLER: Thank you, Paul.

MR. BODEN: This is Les Boden. I may have missed it, but you currently have four centers scheduled to start as of the beginning of August, the end of July. Are your -- what are your plans for getting centers in the other major sites?

MS. MOSIER: This is Roberta. We have four Department of Labor District Offices. Those are the offices where they're actually processing the claims, making decisions, issuing payments.

We have no plans to have any more than four district offices --

MR. BODEN: Oh, okay.

MS. MOSIER: -- for our 10 resource centers that are located around the country, and I think -- how many of those are open? I think four of those are opened, but the rest of them are opening next week.

MR. BODEN: And what is the staffing on those other centers?

MS. MOSIER: The resource centers?

MR. BODEN: Yes.

MS. MOSIER: The resource centers, I believe, are staffed with a minimum of an office manager, four interviewers, claimant interviewers, and one clerical staff.

MR. BODEN: Okay.

MS. SPIELER: Is there any thought of doing any cross-training for the DOL and DOE staff who are going to be dealing with claims, so that some people at least have an idea of what's going on on the other side?

MS. MOSIER: I'm not sure I understand the question.

MS. SPIELER: Well, you were talking about the training that the claims examiners were going to be --

MS. MOSIER: Right. The claims examiners in the Department of Labor.

MS. SPIELER: Right. And I was asking whether there had been any thought given to having people who were going to be handling the DOE claims stuff go through that training or a few of them with the DOL staff and vice-versa, so that people would have some idea of what's going on to people who have multiple claims.

MR. SELIGMAN: Emily, this is Paul Seligman. The answer to that question is yes. Unfortunately, next week and the week after, when DOL is basically running their training sessions, every single one of my staff is in the field at town hall meetings. So maybe the following week, we could accommodate that.

I think that's an excellent idea. I think, Roberta, if we could work that out, that might work very well. I think that's a great suggestion.

MS. SPIELER: Other comments or questions from either committee members or anyone else who's on this conference call?

MR. SELIGMAN: This is Paul Seligman. I just wanted to make one other addition to what Roberta said about either the satellites or roving resource centers.

In addition to the Burlington, Iowa, site, we've also received requests from other areas for such services, including Los Angeles, Kansas City, Amarillo, Texas, and Buffalo, New York, area. So there has already been, either formally or informally, expressed requests to have such services provided in those areas, and we suspect we'll have additional ones, and as Roberta pointed out, we're -- now that we've got the fixed assets and the 10 resource centers open and running, we're going to turn our attention now in the next few weeks to how best to manage these satellites.

MS. CISCO: Jeanne Cisco. I have a question for Roberta before we move on. If the Department of Labor gets a claim, and they decide that it's not a federal claim, it's probably a state, is the claimant going to get any type of notification that they may be eligible for a state claim?

MS. MOSIER: I think we already talked about that and decided that we need to -- the Department of Energy and the Department of Labor need to discuss the best way to do that.

MS. CISCO: I'm just very worried because several have already went into the office.

MR. SELIGMAN: Yeah. Jeanne, this is Paul Seligman. Jeanne has described one of these -- I don't want to use the word "classic", but it is a classic start-up problem. We're just now getting the requests for Physician Panel Review Form ready for distribution to the resource centers, which will be the first step in initiating the state process and physician review process, and to be honest with you, there's just too many things going on in these last few weeks to catch up with between opening the resource centers, and that will be accompanying a procedures, office procedures manual and a database instruction which will be going out to all the resource centers as well.

What we'll have to do is go back, Jeanne, as you point out, and pick up some of the things that happened in these last couple of weeks regarding individuals who clearly will have filed claims that are appropriate for the state on the DOL forms.

MS. CISCO: Okay.

MR. SELIGMAN: We'll just have to be attentive to those, to pick those up in these first few weeks of the program, probably the first few months of the program.

MR. ELLIOTT: Emily? This is Larry Elliott. I hate to interrupt, but I'd like to let you know that I need to move on to another meeting at 2:00.

MS. SPIELER: Okay. Why don't we then -- if there are any additional questions for Roberta, why don't we hold them and hear an update on what NIOSH is doing, and then, Larry, get any questions that we can answered, and if there are additional questions, we'll get them relayed to you. Is that all right, Paul?

MR. SELIGMAN: Yes, that's perfect. Go.

MR. ELLIOTT: Thank you. This is Larry Elliott, NIOSH, Health and Human Services, Centers for Disease Control.

I appreciate sitting in on this part of the meeting and being able to tell you where we're at, our responsibilities that have been delegated through the department down to us here at NIOSH for this Compensation Program.

Our rule on probability of causation that DOL will implement for determination of cancer-related claims and our rule, and the draft rule on the dose reconstruction process are completing department-level review this week.

The Secretary will examine those early next week. He will provide an unofficial copy to OMB for -- to get it started in the Office of Management and Budget process as well as DOL, Labor, will have a copy, and we'll be speaking to Labor about the contents of those rules early next week.

It's our intent, our goal, we're trying to achieve a goal of getting these rules published as soon as possible, hopefully before the 31st, the start date, and there is a 180-day public comment period in these rules. They're interim final rules.

We have proposed a slate of nominees for the Advisory Board on Worker and Radiation Health. That slate of nominees is within the Department of Health and Human Services, awaiting for the President to make those appointments.

The other responsibility that I have that I wanted to speak to today for this particular committee is our responsibility to, under the Act, to provide a list of qualified physicians for appointment to the DOE Physician Panels to review state-based claims.

We have provided that list of qualified physicians to DOE. We presented them with 46 physicians for appointment to the panels across the country with nine reserve physicians identified.

So with that, I think, you know, I better let you have an opportunity to ask me questions.

MS. SPIELER: Questions for Larry?

(No response)

MS. SPIELER: Larry, would it be possible for -- I assume it would be, once the rules are available, if you could have -- give them to DOE with the request that they be mailed out to committee members.

MR. ELLIOTT: Yes, of course. We'll let DOE know the date that they're published, and the Federal Register Notice reference as well as how to access them through the web.

MR. SELIGMAN: This is Paul Seligman. We'll also post these on our own website as well.

MS. SPIELER: Okay.

DR. BURTON: This is John Burton. The 46 physicians, are they working full-time? It doesn't sound like a very large number for the program.

MR. ELLIOTT: I'll let Paul answer that. Our responsibility -- this is Larry Elliott again from NIOSH.

Our responsibility was simply to provide a list of qualified physicians for DOE to appoint. We did so, based upon what I understood to be a necessary number of physicians.

MR. SELIGMAN: Yeah. We -- John, this is Paul Seligman. We actually made a specific request to NIOSH for a minimum of 30 physicians, and they've well exceeded that, and our estimates were based on staffing at least 10 panels with three physicians each and would probably review all told somewhere in the neighborhood of 1,500 to 2,000 cases per year for the first two years.

Again, this was based on our calculations of, you know, clearly them probably spending in the neighborhood of six to eight hours a week

reviewing these claims, and based on our estimates of how long it takes the Fernald Panel to review an average case.

We hope we got it right, but if, you know, we don't have enough physicians or we don't have enough panels, we may be in the position of having to go back to NIOSH for additional members, but we think we're reasonably conservative and hope to be able to, you know, cover with those individuals that we have, you know, in a prompt and thorough review of the cases and claims made.

DR. MUELLER: This is Kathryn Mueller. I just wondered if you were fully satisfied with the level of physicians that you've received in terms of board certification and experience in the area and variety of specialties.

MR. SELIGMAN: Yes, I certainly am. I know that Larry's group will more thoroughly review those applicants. Do you want to say anything, Larry?

MR. ELLIOTT: Yeah. I would. Larry Elliott again from NIOSH. I think we're very pleased with the response that we had for our solicitation of candidates or nominees for this responsibility.

We had more than 250 names, and we're still receiving CVs and letters of interest, and we will maintain those, and we will examine them according to the criteria that we set up, and we'll add to the list here that we will maintain for additional submission to the Department of Energy.

MR. SELIGMAN: This is Paul Seligman. I know that in the last committee meeting, there was a lot of concern about whether we would get any such volunteers, given the statutory hourly rate that was proposed, but I guess many physicians in the nation have stepped forward to recognizing the importance of this program and indicated their willingness.

So I know from my point of view, I was very gratified by the response that NIOSH received to their solicitation.

MR. MILLER: Larry, this is Richard Miller. Do you have a sense whether this draft rule that's gone to OMB -- is this going to contain -- I didn't listen, I guess, carefully enough, but is this going to contain provisions or not dealing with the expansion of the special exposure cohort or is that going to be in a subsequent rule?

MR. ELLIOTT: The two rules that I spoke about are simply those rules on dose reconstruction and probability of causation. The responsibility that we have for preparing procedures on how to handle petitions of classes of workers to the -- as additions to the special exposure cohort, we have not yet worked on that, and we hope that our advisory board will be put in place to work with us.

MR. MILLER: So you don't have an expected time frame on that is your point, is that right, or do you have -- is it three months? Six months? How long do you think it'll take before you'll have a draft rule in that area?

MR. ELLIOTT: I answered your question earlier on the other two rules, and I told you where we're at with regard to the special exposure cohort. We haven't started work on that yet.

MS. SPIELER: Other questions for Larry?

(No response)

MS. SPIELER: Why don't we move on to a brief report --

MR. ELLIOTT: Emily, if I could, I'd like to add one --

MS. SPIELER: Sure. Go ahead, Larry.

MR. ELLIOTT: -- other comment here. If anyone does have questions of NIOSH or of me in particular, you can feel free to reach me at area code 513 841-4498 or if you choose e-mail as your route of communication, you can simply send an e-mail to ocaf.cdc -- excuse me -- at cdc.gov. So it's ocafatcdc.gov.

MS. SPIELER: Thank you.

MR. ELLIOTT: We will respond. Thank you.

MS. SPIELER: Were we going to also have a report from DOJ, Paul, or should we move on to the Office of Worker Advocacy?

MR. SELIGMAN: Well, we do have a DOJ representative on the line. Liz Epstein, do you want to make a brief comment?

MS. EPSTEIN: Yes. I am here for Claudia Gange today. She is actually out in Colorado.

Today, the Justice Department was tasked with three responsibilities, I believe most of you know, to develop procedures to notify claimants or their survivors of availability of the Supplemental Compensation and Benefits under the program, to identify and notify the eligible covered uranium employees or their survivors of the availability, and that upon request of the Secretary of Labor to provide information needed to adjudicate the claims.

To date, we have sent out mailings. In June, we notified our eligible covered uranium employees. We also published a press release in June. We updated our website to provide a link to the Department of Labor website, so people could download the claim forms.

We are drafting a notice for publication in the Federal Register. We have developed procedures to handle requests for information from the Secretary of Labor necessary for the adjudication of these claims, and we are working closely with the Department of Labor to sign up the records management system to process claims as they come to the Justice Department.

Our office here at Justice is fielding calls daily about the program from our claimants and also from others who perhaps thought that we were running the program. We are trying to make sure that we provide accurate information to them and also to our claimants.

We've also been traveling with the Department of Labor and Department of Energy to the various town hall meetings that have a large Justice or RICA interest, places like New Mexico, Nevada, Texas and Colorado, and our office and the department is definitely poised, and we're ready for action. We're ready for those claims to be coming in.

I can answer any questions.

MS. SPIELER: Great. Questions for Liz?

DR. SHOR: This is Glenn Shor. I have a question for Liz, but I think it probably applies to the other two programs as well. So I'll ask it now.

Has there been any specific outreach to the unions and to the sort of union newsletters that cover the trades that were involved in a lot of these sites?

MR. SELIGMAN: This is Paul Seligman. No, there is not.

MR. ELLIOTT: This is Larry Elliott. We -- here at NIOSH, we

did have a meeting with a number of AFL-CIO affiliates, and we have had -- I've responded to several phone calls from local union officials, but we have not tried to get anything -- it's a good idea. I actually hadn't thought of it.

DR. SHOR: I guess my recommendation would be that there -- you -- from the AFL-CIO, you get the list of union newspapers and make sure that those are on your mailing lists for all these programs, for all the press releases that come out about this program.

MR. SELIGMAN: Yeah.

DR. SHOR: I thought we had discussed this at a previous meeting.

MR. SELIGMAN: Yeah. You had mentioned it at the previous meeting. It just hasn't been done yet.

MS. EPSTEIN: And here at the Justice Department, we have close relationships with several advocacy groups out in the Southwest who we notify of things, and so I believe that they're probably in contact with the unions as well.

MS. GASS: I'd like to make a comment, please. This is Linda Gass, and many of the most affected people are not computer-oriented, and I just want to mention we need to always keep in mind the most affected people, and I think the comment about getting it into the union newspapers is very good, and we just can't force these people to be on computers.

MS. SPIELER: Yeah. I agree. It does seem as if there should be sort of an effort made to establish direct communication with the unions that are specifically involved or have members or retirees who are involved or affected by this program, and that it seems to me that sending the press releases out is kind of a minimalist plan but perhaps there should be some thought given both at DOL and DOE to on-going contact with the unions because certainly for the retirees, that may be the very best way to reach people with, for example, information about whether they should be filing, which may be beneficial in the long run to both DOL and the Office of Worker Advocacy in terms of not getting inappropriate claims.

Other questions or comments for Liz?

(No response)

MR. ELLIOTT: Emily, this is Larry Elliott. I'm going to sign off

ow.

MS. SPIELER: Okay. Thank you very much, Larry, and --

MR. ELLIOTT: I'll see everyone out at Denver, I'm sure.

MS. SPIELER: Hmm?

MR. ELLIOTT: I'll see everyone out in Denver.

MS. SPIELER: Okay. Great.

MR. ELLIOTT: Okay. Thanks, all. Bye-bye.

MS. SPIELER: Good-bye.

MS. EPSTEIN: If there are no more questions for Justice, I'll also sign off.

MS. SPIELER: Okay. I think that's probably fine, and if any do come up, we'll be sure and be in touch with your office.

MS. EPSTEIN: Great. Thank you.

MS. SPIELER: Okay. Moving on now to the Office of Worker Advocacy, I know there are a number of issues and questions that people have for Paul. Why don't you start this off?

MR. SELIGMAN: Sure. This is Paul Seligman, Acting Director, Office of Worker Advocacy.

I'm just going to quickly go down seven areas that we've been working on the last couple of months since we last met regarding implementation of the program.

The first issue is the hotline. I'm going to talk a little bit more about the resource centers that Roberta has already covered in large extent. I'm going to be talking about records management issues and our on-going work with our field records folks, talk about the facilities list and its status, physician panels, state compensation MOUs, and then finally contractor-insurer relations.

MS. SPIELER: Before you do that, since it's not on the list,

perhaps you could tell us what the plans are for staffing your job?

MR. SELIGMAN: Yeah. That's an easy one. I don't know. I will be leaving here formally -- actually I've already left formally, but I'll actually physically no longer be occupying the office here at the Department of Energy on July 31st. That will be my last day here, and I'm not aware of anyone who's yet been designated to take my place in an acting capacity.

As soon as we have that information, I will certainly make that information known to others.

I'll be here, I think, today, and I'll be here next week on Tuesday and Wednesday, and then the following week, Monday and Tuesday, July 30th and 31st.

Okay. That's my plans.

MS. SPIELER: Okay.

MR. SELIGMAN: Hotline. When the Department of Labor opened their -- announced their regulations at the end of May, they opened their Department of Labor Call Center. We worked closely with the DOL folks and had an opportunity to review a lot of their protocols and questions and the way they're answering and dealing with calls.

We felt that it was prudent because so many people have been calling our hotline to keep our hotline open for the time being, and in fact, despite all of the publicity at the town hall meetings and in the paper and elsewhere featuring the Department of Labor's Call Center, we are still getting 240 to 300 calls per week on our DOE hotline.

Again we're trying -- you know, answering questions, taking the information, mailing people forms, referring them to resource centers, doing whatever we can to make sure that their questions are answered or that their concerns are forwarded to the right spot.

We have shifted our focus in gathering information at the DOE hotline to getting information about potential state claimants, and in fact, we changed our form and our data collection instrument to start identifying and to prompt individuals regarding their interest or possibility in filing such a claim, so that we can get back to them directly with either the appropriate request form for physician panel review, etc.

But we have at present no backlog in terms of answering calls on our voice mail, and we've got, as Glenn pointed out earlier, over 15,000 people registered in our database and managed over 23,000 phone calls, and we'll continue to work closely with the DOL hotline, and I think at some point in the future, we may do something along the lines of what the committee had recommended in previous meetings about trying to have at least one number that people can call in to, but at the moment, we've found that the two lines seem to be working reasonably well.

On the resource center side, as Roberta pointed out, we opened up the Paducah Center on July 2nd, Las Vegas on July 5th, Portsmouth on July 16th. Alaska and Idaho Falls are today, and then Denver, Espanola, Richland, Augusta and Oak Ridge will be opened next week.

We've had great turnout at these resource centers openings with participation from members of the congressional delegations, unions, DOE operations staff, local government, etc., and I think they've generally been very well received and very positive events.

As of today, we have already processed a 175 claims through the Paducah Resource Center. We've processed a 107 claims through the Las Vegas Center and 43 through the Portsmouth Center, and we actually have some good news to report, which is, that of some of those claims that have been processed, DOE's records management folks have already finished the employment verification, and a number of those are poised to send those completed verifications to the Department of Labor on July 31st, when they're up and ready to begin processing claims.

The other thing that we're doing -- the other thing I want to mention vis a vis the resource centers is that we had in staffing those centers over 230 individuals applied for these various jobs, not only in response to local advertisement but, most importantly, in response to the assistance of local labor unions in identifying candidates to serve in these resource centers.

We were in, I'll be honest with you, an embarrassing situation of having to turn away a lot of very, very qualified and terrific folks, but I think we've got a core and a nucleus of some very good staff at these centers, many or all of which have extensive DOE employment experience, and I think will be good staff.

Department of Labor has identified an individual at Headquarters who will serve as the resource center liaison, a fellow named Larry Hoss, and we

have just done the same for DOE, Virginia Johnson, and she will be serving as our federal resource center official.

Finally, vis a vis the resource centers, we've been in contact with a number of state compensation groups to help to schedule state-specific training of resource center staff, and in fact, we're going to have the first one of those in Portsmouth with the Ohio State comp representative on -- I guess it was -- according to my notes, it should have happened this morning. So I hope it happened this morning.

That's all I have to say vis a vis the resource centers.

In terms of records management, we have -- we put out about \$2.6 million in funds to all our operations offices to support the burden of employment verification, pulling radiation records, job records, medical records, etc.

I personally went and spoke at the record management -- our DOE federal and contractor record managers conference in San Antonio in mid-June. Roger Anders, who's been leading our effort in this regard, has put together a very detailed set of procedures for not only handling requests but routing requests for information for -- in response to the claims requests for records that are received by the DOE.

We are also working closely with the Social Security Administration and will be going there on August 2nd, hopefully to come to closure on how best to verify employment for atomic weapons employers and beryllium vendor employers using Social Security Administration, and we will be using the SSA forms again which will have to -- you know, which will be going out to our resource centers to get permission to get access to those records to verify employment using that record system.

Our -- we also have on July 30th and 31st, a conference scheduled here at Headquarters in Washington, a video-teleconference with all of our DOE public affairs and records management and safety and health and radiation health folks throughout the complex, to basically spend two days talking about the implementation of the program, their roles and responsibilities and to go over many of the guidelines and procedures and documents that we have been circulating and reviewing to the field.

Fourth item I want to talk about was the facilities list. On June 11th, we published in the Federal Register an update of that list, and it's on our Worker Advocacy Website.

In addition, we posted on that date a searchable database of that list which basically allows viewers to view the most up-to-date information on the facilities in terms of not only the covered facilities but the dates that are covered and a brief description of the work that was performed at each site.

We have now moved as a result of that -- as of that date, from what I would call an active mode to more of a reactive mode, in that we are now responding to inquiries from the public about why isn't certain companies covered and not covered, why are, you know, certain dates included or not included, and we're already receiving fairly brisk traffic in terms of telephone calls and e-mail messages, and we'll now have our staff working to, you know, do that.

The advantage of maintaining this list on line now is that we plan to update it continuously, and as new information comes to us, and we've had a chance to evaluate it and verify it, we will be making appropriate adjustments to the facilities list, and that's, I think, all I have to say regarding the facilities list.

Jeff, did you want to say something?

MR. EAGAN: Just a comment. We're also planning a special training for the Former Worker Medical Screening Programs.

MR. SELIGMAN: Oh, yes. I'll mention those. All right. Jeff's point is that the Department of Labor conducted this week and last week two training sessions for our resource center staff, and we're going to hold a third training session August 21st and 22nd, I believe, or 20th and 21st in Knoxville, Tennessee, focusing on Former Worker Program staff and other union member staff who've been identified to us who would be interested in working directly with claimants and assisting in the program, and we're in the process of tailoring and developing basically a day-and-a-half training program for those folks.

Jeff, thank you for reminding me of that.

The fifth item I want to talk about was the physician panels. The physician panel guidelines and proposed rule has been drafted. It has completed the concurrence process here in the Department of Energy, and my understanding is it went to the OMB yesterday for their review and circulation to the other federal agencies.

The way the rule is currently drafted, it contemplates not only a 60-day comment period but also a public hearing on the content of those rules, I believe to be scheduled at some point in the middle of that 60-day review, either

middle or towards the middle end of that 60-day review cycle.

Our hope is that these proposed rules are published shortly, that such a public hearing would -- of the rule would occur in September, probably here in Washington, although again we'd certainly consider other -- either other venues or maybe even multiple venues.

We have internal within the office sketched out the procedures -- well, actually it's more than sketched out. We've really developed a pretty substantial draft of the procedures that we will be using for processing state claims, including our staffing needs, to support these panels and how to basically organize, summarize and present information to the panels, not only including, you know, short profiles of the DOE facilities but also figuring out how to identify other relevant documents.

We've also decided that we would use, to the extent possible, our Former Worker Programs in developing a thorough job history and occupational history for claimants in this program, if they do not come to us with such a history.

We had talked at some point and talked at length about trying to do such a thing at our resource centers, and to be honest with you, our Former Worker Programs have by far the most experienced -- they have the tools, they have the staff, they have actually the maps and the site histories assembled in such a way that they are really the ideal locations for individuals to go to get a thorough history, which often takes, you know, two to three-four hours and even some days, you know, additional days to complete, and so we're going to use that as the way of developing that detailed job history to supplement the medical information and other information that we can glean from DOE's own records at the site.

As Larry Elliott pointed out, we did receive a panel of -- a slate of 46 nominees for these panels, even though we only asked for 30 and nine alternates. We have a lot of people trained in pulmonary medicine, a few in toxicology, a few physicians with both medical and industrial hygiene backgrounds, and so we're now working to divide those appointees up into panelists to cover not only sites but also groups of sites that did similar kinds of work. That's the status of our physician panels.

Regarding the state MOUs, we sent out two weeks a draft of a generic MOU to the states for the purposes of initiating a discussion. My understanding is that Kate Kimpan has been in contact with most of those states, and we've begun discussions about the specific issues and items that each state

would like included in their various memorandum of understanding, and so this will be hopefully an on-going process that we can, you know, bring to conclusion I've been targeting the next four to six weeks, but certainly by the end of August.

Finally, in the area of contractor-insurer relations, I know that Marty Mathamel and Kate have been working closely with the subcommittee and briefing them on the status of various issues.

The question of who the willing payer should be where there's no current employer insurance has been squarely placed in front of our procurement folks here in the Department of Energy, and they have not been able yet to formulate a response as to how best to deal with that particular issue. I think that's going to be an extremely important one.

There's been a lot of interest and attention throughout the department about how to cover expenses related to claims that are felt to be generated by this program. We received a memo from the Oak Ridge -- folks in Oak Ridge talking -- estimating that they'll need an additional \$110 million just to cover the cost of -- additional cost of occupational illness claims in their facility.

At least this issue is now certainly before the leadership of this organization, although at the present time, I haven't yet seen any direct activity as to how people want to resolve it nor have I seen to date any discussion about either establishing a special fund or doing anything of that nature to deal with how best to pay for those issues.

That's basically it. The only other last item is that, as was raised earlier, we do have two resignations from the committee, from the WAAC Committee, and because at present in the Department of Energy, there's a moratorium on all FACA nominations until we have an Assistant Secretary on board, we're not going to be able to replace either Andrea Taylor or Linda Rudolph until such time as we have an Assistant Secretary, and that's my report.

I imagine it will engender some questions. So let's have at it.

MS. SPIELER: Okay. Why don't we start with the committee member themselves, if you have questions or comments for Paul?

DR. SHOR: I'll start. This is Glenn. Two related questions.

Paul, you spoke about the resource centers doing -- in some of the larger sites doing -- making some contact with the state-specific information

people for training, and you also talked about DOL-conducted training for resource center personnel, and that there's going to be some meeting in August in Knoxville.

Is it possible for states to send a representative from their information and assistance offices or whatever ombuds offices or something to those trainings, so that there can be sort of a train-the-trainer approach, and that an individual could be identified in each of the affected states who would be skilled in understanding the program?

MR. SELIGMAN: Yeah. We're working to identify those individuals. I guess we can certainly extend the invitation to -- for states to send such individuals to the Former Worker Program training, but because so many of these state issues are specific to the states, our sense was that the best place to hold the training was actually at these resource centers, to do them locally, to do Ohio in Ohio and Kentucky in Kentucky and Tennessee in Tennessee.

DR. SHOR: Yeah. I guess I'm thinking of the states that are not -- that don't include the larger sites.

MR. SELIGMAN: Yeah.

DR. SHOR: You might want to do a single training that could try to address at least the general issues.

MR. SELIGMAN: That's a good idea. I'd have to think practically how to try to do that because, as you -- I think you've suggested in your question, there's some difficulties given all the variety of states that are out there and how best to accommodate that, but I'll certainly take that under advisement.

DR. SHOR: Okay. Good.

MS. CISCO: This is Jeanne Cisco, Paul. I have a question. What -- the training in the resource center at Portsmouth this morning. What were they trained on?

MR. SELIGMAN: I don't know the answer to that.

MS. CISCO: Because it's their understanding they accept no state claims. I was just wondering about a flow chart or anything of how the whole program works.

MR. SELIGMAN: Yeah. We do actually have a flow chart. We just haven't yet distributed it, but it's on its -- it's coming shortly. What Jeanne is referring to, which is a very important -- I was going to say nuance but it's not really a nuance. It's important criteria.

We think that the best approach at this point, now having struggled with this for a couple of months, is that at the resource centers and as part of this program, we should be asking individuals to basically fill out a form that serves as a request for a physician panel or medical panel review rather than having individuals come in and fill out these state first report of injury and illness.

We should complete -- and that the request for review plus the signing of appropriate release forms for medical records and DOE records would give us all the information that the physician -- give us access to all of the information that the physicians panels will need to review the case, and that we should proceed with filling out a first report of injury or illness for the state and to assist an individual primarily through a case worker here at Headquarters who, once the physician panel has made a determination that there is indeed a relationship between that individual's illness and their employment in the department.

It took us, to be honest with you, awhile to work through the various pros and cons of filling out first reports initially or going through some other mechanism, but we've chosen that mechanism and that -- those procedures will be coming forthwith to all of our resource centers in this coming week.

Hello?

MS. SPIELER: Hello? Are you talking to the full committee now, whoever's talking?

(No response)

MS. SPIELER: Okay. Additional questions for Paul from non-members of the committee? Anybody that's on the telephone call right now?

MS. HERMAN: All right. This is Angela Herman, American Insurance Association.

Paul, you mentioned there's a moratorium on all FACA nominations until the Assistant Secretary is named. Specifically, which Assistant Secretary were you referring to?

MR. SELIGMAN: Environment, Safety and Health.

MS. HERMAN: Okay.

MS. GASS: This is Linda Gass. I do have a question. How many non-members are on the call today?

MS. SPIELER: Well, everyone identified themselves at the beginning of the call. I think there were about a half a dozen.

MS. GASS: I think there should be more publicity so that --

MS. SPIELER: Okay.

MS. GASS: -- the subgroup can do that.

MS. SPIELER: Okay.

MS. GASS: Participate, because there's certainly enough work for more people.

MS. SPIELER: I think we agreed with you at the beginning of the call, and we're going to try to encourage DOE to do better publicity, and we would welcome additional community and other participation in all of our meetings.

MS. WILLIAMS: This is Gail Williams at Boston University, NTS, and I just wanted to ask Mr. Seligman. I heard about the Knoxville training, but at -- on another call that I sat in on with Dr. Lou Pepper, you had mentioned that you would be scheduling or there would be other additional training scheduled after that. I haven't heard anything more about that.

Will there be anything other than the Knoxville training?

MR. SELIGMAN: At present, no.

MS. WILLIAMS: Okay.

MR. SELIGMAN: Again, we initially hoped to pull the Former Worker Program folks into the resource center staff training. It turns out that our resource center staff training just got oversubscribed quickly, which was why we needed to set up a separate session for the Former Worker Program folks, and if it turns out there is on-going interest and enthusiasm and more than we can handle

at this August session, we'll set up yet an additional training session.

MS. WILLIAMS: Okay. Thank you.

MR. SELIGMAN: Sure.

MR. BODEN: Hi. This is Les Boden. Paul, I had some questions about how -- from reading some other documentation, it seems like the intake people are going to be holding off on doing anything about state compensation until after decisions have been made about the federal compensation, and I guess I'm wondering whether that is going to work in terms of people having timely filing for their state systems or whether that's included in the memorandum of understanding.

MR. SELIGMAN: You're talking about now the individuals who file through Department of Labor for a cancer, a beryllium or a silicosis or either as part of the -- and that's what the guidance specifically referred to, and we struggled with this issue of whether to have our physicians panels reviewing a beryllium claim before the Department of Labor had a chance to opine on whether the condition was accepted because our feeling was once the physician -- once the Department of Labor had accepted a beryllium disease claim, that there was no essentially need for us to have that claim reviewed by our physicians panels, and the same would probably be true for the other conditions in DOL as well.

So that's the context in which that guidance was provided, basically just administratively here within the Headquarters of the Office of Worker Advocacy, to hold and not refer to the physicians panels those claims that are active before the Department of Labor for conditions that they cover.

We would not hold them at the resource center nor would we discourage people from filing for both at the resource center, but we would hold them here at Headquarters.

Does that answer your question?

MR. BODEN: Yes, it does.

MR. SELIGMAN: Okay.

MR. BODEN: The other question that I had was just to clarify as far as the state filing goes, what the department's current take is on handling noise-induced hearing loss claims?

MR. SELIGMAN: Yeah. I don't know the answer to that, and I think the question is what the current position is on noise-induced hearing loss claims.

We have been working to develop the procedures here for the physician panel review of those illnesses related to a toxic exposure. We have not yet taken any position one way or the other, to be honest with you, I haven't taken a position one way or the other, which I guess makes me the DOE, that -- to what degree the office should be providing assistance, you know, vis a vis noise-induced hearing loss claims. I think that question is still in play.

MR. ELISBURG: Paul? Don Elisburg.

MR. SELIGMAN: Yeah.

MR. ELISBURG: Hello?

MR. SELIGMAN: Yep.

MR. ELISBURG: My question is in terms of the physicians rules that you've got circulating. When do you expect them to go in effective so claims can be processed?

MR. SELIGMAN: That's a good question. I'm going to assume that they will go into -- we've been told that they can -- we can be in processing of claims as soon as they're published, which is why we're pushing for early publication.

MR. ELISBURG: So you're looking then at the equivalent final like the DOL did?

MR. SELIGMAN: That's correct.

MR. ELISBURG: Oh, okay. That was what I wasn't sure of, because you listed this sort of long comment and hearing period, and I just -- but you're going to have them operative pending those reviews?

MR. SELIGMAN: That's correct.

MR. ELISBURG: Okay. Thank you.

MS. SPIELER: Paul, I'm still concerned about -- I guess I raise

this at every meeting. There are large groups of people who are going to be applying for benefits who, if their claims are contested, will be found to be ineligible under state rules because the state MOUs don't in any way suggest the waiving of defenses.

So if those claims go to special funds in the state or to contractors who aren't currently with active contracts with DOE or to insurers who cover subs or contractors and hold the risk of the claims, do you -- you have no contractual set-up to -- you have no contractual set-up with the states, and you would have no contractual set-up with the payer for the waiving of defenses in the payment of these claims.

MR. SELIGMAN: That is correct.

MS. SPIELER: And you have no position at this point with regard to establishing a mechanism for DOE to be the responsibility payer on these claims, so in order to avoid the raising of defenses.

MR. SELIGMAN: That is also correct.

MS. SPIELER: So as of right now, just for clarification purposes for myself and for the rest of the committee and the other people on the phone call, as of right now, the situation is that if someone worked for a current-contracted contractor where that contractor has responsibility itself for the claim, and that may be for predecessor contractors on most sites, --

MR. SELIGMAN: That's right.

MS. SPIELER: -- there is an expectation that the contractor will agree to pay the claims, but if the contractor has a carrier or if the prime contractor has no contractual obligation to the payment of that claim, or if there is no current primary contractor, those claims are going to be contested within the system, and we've not established any mechanism for the admission of the physician panels' opinions nor for the dealing with statute of limitations problems or other barriers to occupational disease claims in any of the states.

Is that a correct summary?

MR. SELIGMAN: I believe that is absolutely correct.

MS. SPIELER: Needless to say, this is a significant concern to this committee. We've made several recommendations both with regard to DOE

acting as responsible payer and also for DOE to establish mechanisms for the current primaries to accept responsibility for claims that they don't have direct contractual responsibility for, and it sounds as if the office is not yet in a position to act on any of those recommendations.

MR. SELIGMAN: Yes. I would appreciate from the committee a letter summarizing those concerns, either directed to me or directed to the Assistant Secretary, because I think you, Emily, have really captured what is an absolutely critical element in this regard, and I think the committee would do well, the advisory committee would do well to go on record articulating those concerns to the department.

MS. SPIELER: Do you have any sense about what percentage of the claims will fall in the current primary contractors currently on notice of obligation to pay under their contractual relations, and what percentage of the claims fall in all these other categories?

MR. SELIGMAN: No, I don't. I mean, that's a great question, but I don't have that information, and I imagine we could work to try to gin up some estimates, but, you know, it may be -- it would require going back and really looking at the contractual relationships and the contractual history of the operations of many of our sites and documents that may be very difficult to obtain.

MR. BODEN: Paul? This is Les Boden. I would suggest that you could, without a lot of extra effort, get some at least approximate numbers by going to the Former Worker Projects because a number of us at least have had to deal with those issues, have kept track at least of some of the claims that are going through and therefore have an idea of how this is working out.

MR. SELIGMAN: Okay. You know, I think that's --

MS. SPIELER: It would be good for us to have some idea of the scope of what we're talking about, which is the dog and which is the tail here.

MR. SELIGMAN: Yeah. Or the size of either one.

MS. SPIELER: Yes, yes.

MR. SELIGMAN: Okay.

MS. SPIELER: And I have one follow-up question about that, that

came up, and John Burton, if he's still on the call, may have something to add to this, but it was raised at the subcommittee meeting of the contractor-insurer relations that some of the third party administrators were prime contractors who don't hold the risk but had some kind of contractual arrangement with the prime contractors mainly raising concerns about the payment of these claims.

Do you know anything about that?

MR. SELIGMAN: I've heard Kate tell me -- this is Paul Seligman. I know Kate has raised this, but I have not heard anything directly.

MS. SPIELER: John, are you still on?

DR. BURTON: I agree that's a concern that we've raised. I think it's an important thing to look into.

MS. SPIELER: It would be really helpful to have, Paul, the subcommittee to get a really concrete explanation of what those concerns are.

MR. SELIGMAN: Okay.

MS. SPIELER: Some of us found it surprising and confusing.

MR. SELIGMAN: Okay.

MS. SPIELER: Other questions or issues that anyone on the phone call would like to raise with Paul and the Office of Worker Advocacy?

DR. BURTON: Paul, this is John Burton. I have a request for some information. It may be included in all the material I previously received, but I would like to get some description of this Former Worker Project, a little better understanding of what went on there, since obviously it's something referred to that's going to be important in helping workers through the process and so on.

MR. SELIGMAN: We actually have a Former Worker Program website that's part of a different office in the agency, the Office of Health Studies, and Judy will e-mail that out.

DR. BURTON: Okay. Great.

MR. SELIGMAN: That describes where those sites are and who the consortia of universities and unions that are managing those programs and

what they're focusing on, etc.

DR. BURTON: Okay.

MR. MILLER: Paul, this is Richard Miller. I just had one operational question. You had said earlier that there would be about a 60-day process for your information -- the information to be requested from the Department of Labor and for you all to search through the various contractor records and then get back to the Labor Department.

MR. SELIGMAN: That was specific to employment verification.

MR. MILLER: What about with respect to dose records?

MR. SELIGMAN: You know, we haven't -- that one, we haven't pinned down because we know that's going to be a lot more complicated. I think that's -- we'll, I think, look to NIOSH for guidance as to what they feel is an acceptable period of time to look for those records.

MR. MILLER: Okay.

MR. SELIGMAN: But we -- that -- you can make the same case not only for dose records but for medical records, etc. We only provided initial guidance regarding employment verification just because we didn't want that piece to, you know, be the bottleneck for -- and because there is another mechanism in terms of affidavits for verification of employment.

MR. MILLER: Right. But there's not affidavits for, for example, missing medical records.

MR. SELIGMAN: That's correct.

MR. MARTINEZ: This is Len Martinez. From a contractor's perspective, I would suggest that NIOSH talk to the contractors who actually have to go find the records before they start establishing time frame whereby they have to be submitted.

MR. SELIGMAN: As it turns out, this Tuesday, they're coming here to Headquarters to talk with our radiation staff, and they will be part of the July 30th and 31st call that we're having, and then their plan after that is to go to -- to start at Hanford and Oak Ridge and to meet with the radiation records -- the folks who manage the radiation records at those sites, and I think, Len, your

suggestion is the correct one.

I think, based on some of these initial discussions and some field contacts, they'll be in a better position to begin to define some of the parameters under which they wish to operate regarding time lines for securing records.

MR. MARTINEZ: Okay.

MR. MILLER: Well, Paul, let me just follow up on the question, if I could. It's Richard Miller again.

Do you have -- is it currently operationalized, that for the non-DOE facilities -- now, I'm talking about atomic energy weapons employer facilities, that there is somebody who is in charge of sort of the difficult job of searching the archives to say somebody worked at Linde in Tonawanda, New York, that if the claim gets filed, that there's a way operationalized on the dose record information to be retrieved, and who is the party that's responsible for doing that or are there several of them around the country?

MR. SELIGMAN: Well, when it comes to employment verification, we've taken on the responsibility here at DOE Headquarters to verify employment either through correspondence with the existing employer, if there is such, or directly through Social Security.

Regarding the dose information, that again falls to NIOSH to work on, and I'll be honest with you, to date, we've not really had the discussion about how best to coordinate our employment verification effort with their efforts at trying to secure exposure records.

MR. MILLER: You have a contractor who's been retained to do that sort of nationwide retrieval for NIOSH if they call you up with, say, an atomic energy weapons employer, and you have -- where you have physical staff? Because, I mean, I know these are spread all over the country in various archives.

MR. SELIGMAN: Yeah. Well, we have at DOE, we have a small contractor that we have used to do archival records search, but that would again primarily be for the purposes of employment verification.

We have not anticipated hiring such a vehicle for the radiation dose reconstruction side of the house, but I think you raise an interesting and important question that probably merits -- that does merit further discussion between ourselves and NIOSH.

MR. MILLER: Thank you, Paul.

MS. GASS: Well, I've got a question. This is Linda Gass --

MS. SPIELER: Go ahead, Linda.

MS. GASS: -- in Knoxville. Paul, could you have a link -- hello?

MR. SELIGMAN: Yeah. We're still here.

MS. GASS: A link to some of the main support groups for sick workers? This is on the -- could you provide a link to some of the main support groups?

MR. SELIGMAN: Yeah. I don't see a problem with that. We actually have -- we should actually talk about ways to provide links to not only the support groups but a lot of our operations offices. There are a variety of links that we can work on, and if folks write to me and suggest those kinds of links, we can certainly accommodate them.

MS. GASS: Okay. Thank you.

MR. SELIGMAN: Yeah.

MS. SPIELER: Other questions or comments with regard to the Office of Worker Advocacy?

MR. OLSEN: Yeah. Paul?

MR. SELIGMAN: Yeah.

MR. OLSEN: Mark Olsen here. Paul, with regard to that issue of document recovery, there are companies out there that are very, very effective, very, very cost effective in document review and recovery --

MR. SELIGMAN: Right.

MR. OLSEN: -- that I suspect would be much more cost effective if they had the primary role as supported with on-site directors, but if they had the primary role of looking for and recovering and retrieving the documents in question, I think that would be a much more effective way than simply tasking the M&O contractors to do that.

MR. SELIGMAN: Well, when it comes to the AWEs and beryllium vendors, I think you're right, and you may also be right when it comes to some of the historical or archive records that have moved on from some of our sites to federal records centers.

We have -- I have had the good fortune of having met with many of those organizations and contractors who do that kind of work, both here in the Washington area and around many of our sites, and so they have certainly made their services known to me, and my feeling is that when we get to the point of needing their services, we'll certainly put out a request for bids or something of that nature.

MR. OLSEN: Great, great.

MR. SELIGMAN: At the moment, to be honest with you, I just don't have a clear sense in my own mind about the magnitude of this effort, and to what degree we would need such additional help, but if we become inundated and deluged quickly, we can move quickly to find such resources to help us.

MS. SPIELER: Anything else for Paul?

MS. GASS: Yes. Paul, this is Linda Gass again in Knoxville. I just want to make sure we understood putting the minutes of the meeting and just the information flow, that we get a commitment to put it in the Oak Ridge Public Library.

MR. SELIGMAN: Yeah. I don't -- I'm not familiar with how documents are handled down at the Oak Ridge Public Library, whether they're willing to accept the donation from us in that regard, but any organization that's willing to accept our documents, we're willing to have them display them. So, the answer is yes.

MS. GASS: Thank you.

MR. SELIGMAN: Okay. Sure.

MS. SPIELER: Given the lateness of the time, what I'd like to do is declare this the official public comment period for this meeting and ask if any of the non-committee members have anything they would like to add to the record, and I believe that there was one comment that was sent out that needs to be made a part of the record of this meeting, is that right?

MR. SELIGMAN: That's correct. We will do so.

MS. SPIELER: Okay. Perhaps you could tell the committee members what we're talking about.

MS. KEATING: I don't have the letter in front of me. It was a letter from Sylvia Carlsson, and it had to do with the Alaska Program, and what I was planning on doing is including it with the minutes of the meeting.

I had circulated it around to --

MS. SPIELER: Okay. Did everyone get it? Okay.

MR. SELIGMAN: Basically asking us to make sure that -- you know, the folks in the State of Alaska Workers' Comp had not been contacted yet, and that we needed to do so, and she was right.

MS. SPIELER: Okay, okay. I had asked staff to follow up on that. That should be made a formal part of the record of this meeting.

Are there other comments from others who are on the line that you would like to add at this time?

(No response)

MR. SELIGMAN: Okay. Is that it, Emily?

MS. SPIELER: I believe that's it then. We'll declare this --

MR. SELIGMAN: Okay.

MS. SPIELER: -- meeting closed.

MR. SELIGMAN: Judy, before we wrap up, --

MS. KEATING: Yeah. I should have mentioned at the beginning of the meeting that this is being conducted under the Federal Advisory Committee Act, and I'm here as the designated federal officer.

Also, if there were any people who joined us during the call that haven't mentioned their names and their affiliations, just so that we get the attendance complete.

MR. SELIGMAN: We'd be happy to take their name and affiliation now.

MS. GASS: I don't think I mentioned the affiliation. Linda Gass. I'm affiliated with the Coalition for a Healthy Environment.

MR. SELIGMAN: Thank you, Linda.

MS. GASS: Knoxville and Oak Ridge. Thank you.

MR. SELIGMAN: Any other late joiners to the call that we should include in our record?

(No response)

MR. SELIGMAN: Okay. I think we're finished on this end, Emily.

MS. SPIELER: Okay. Well, thank you very much, everyone, for joining us. I look forward to seeing you in Denver in August.

MR. SELIGMAN: Thank you.

MS. SPIELER: And Linda, thank you for joining us.

MS. GASS: Thank you.

MR. SELIGMAN: Bye-bye.

(Whereupon, at 2:49 p.m., the meeting was adjourned.)